3/30/88 R9372-2

Refugee Reports

A Project of the American Council for Nationalities Service
815 Fifteenth Street NW, Suite 610 Washington, DC 20005 (202) 667-0782

Volume IX, Number 3 March 18, 1988

THE VIETNAMESE REFUGEE CRISIS IN THAILAND CONTINUES TO ELUDE SOLUTIONS

Thailand's easternmost province of Trat looks remarkably like an elephant's head, its long trunk reaching down past Khlong Yai then curling into the Gulf of Thailand as if about to sweep the clutch of offshore islands into the mouth of Trat Bay. It was on one of these islands that a search team found a solitary man sitting on a beach, the sole inhabitant, as it turned out, of Rang Yai Island.

Disoriented and clearly frightened, he asked his rescuers if they were Soviets. The reply, "Americans," did not seem to register at first, but gradually, painstakingly his story came out. He had set out from Vietnam with four friends. Six days earlier, their boat was rammed by a Thai fishing trawler. The man drew an oval in the sand and ran his hand straight through it. He swam here. His friends? He did not know, probably drowned.

Some Thai fishermen soon pulled into the cove. They had found the man the day before and given him some food. This time, they brought out rice and some curried fish. One of the Americans offered to buy a straw mat and blanket from them. There was no place safer to take the man, he explained. The Thai Marine Police, for the last two weeks, had pushed hundreds of Vietnamese back out to sea. He would have to stay where he was, at least until the UN could be notified.

"Is he a Communist?" one Thai asked. "A refugee," the American answered. The fishermen talked among themselves, then decided. He could have the mat and blanket. There was a grimy little pillow under the bow. "How about the pillow?" the American asked. "Just the blanket," he was told, "No pillow."

There are now more than 520 Vietnamese refugees on Rang Yai, transferred by the Marine Police from other islands. They are assisted by the UN High Commissioner for Refugees (UNHCR) and a Thai relief agency, and the Thai government has announced that the group eventually may be moved to the mainland and from there to a camp on the Thai-Cambodian border, without access to resettlement. Many have been on the island for more than a month.

IN THIS ISSUE:

We continue last month's discussion of the Vietnamese refugee crisis in Thailand. While officials discuss alternatives, boat people continue to be turned away. We touch on the waiting and uncertainty on the part of Vietnamese refugees and their families, and discuss the larger issues that will determine their fate--the scope of U.S. resettlement, the future of the Orderly Departure Program, and prospects for screening of Vietnamese arrivals in Thailand.....1

- Recent Developments

Significant numbers of Armenians begin arriving in Los Angeles; Supreme Court rules against motion to reopen deportation proceeding based on request for asylum.....6

- Update.....11
- Resources

Two books take historical, critical look at development of U.S. refugee policy....14

- Statistics

Indochinese Camp Populations, 1986, 1987, and cumulative since 1975.....16

Another group of 120 Vietnamese are stranded on offshore oil rigs in the Gulf of Thailand, and an additional 26 are on Kra Island in the south. The Thai Minister of the Interior (MOI) reportedly will not allow these groups to be moved to the mainland.

Meanwhile, the pushback policy--imposed so dramatically on January 27 when a boatload of 40 Vietnamese asylum-seekers was escorted without warning back out to international waters--has been moderated only slightly. Thai officials now say that boat people who reach the east coast will not be pushed off again.

The Marine Police continue to patrol Thailand's maritime border with Cambodia to deter new arrivals. And pushbacks continue routinely in Thailand's western and southern provinces, according to sources in Thailand. Credible estimates now indicate that since the end of January, at least 750 Vietnamese have been forced back out to sea, resulting in over 120 deaths. For the moment, Thailand appears to be offering Vietnamese refugees neither blanket nor pillow.

"First asylum is, in practice, no longer available for Vietnamese refugees in Thailand," said Roger Winter, director of the U.S. Committee for Refugees, a nonprofit advocacy group in Washington, D.C. "Despite Thai announcements that pushbacks have ended, it is more the case that the recent violence effectively has choked off east coast arrivals, which totalled more than 6,000 people from November to January," said Winter. "Furthermore, a pattern of pushbacks has been clearly established in the western and southern provinces. We know of at least nine separate incidents, involving close to 150 people."

No Consensus on How to Restore First Asylum The U.S. government, UNHCR officials, and numerous refugee program advocates all have appealed to Thailand to reverse its pushback policies and allow Vietnamese to reach shore safely. Beyond that, there is considerably less agreement as to the strategies that the United States and the international community should undertake, or the commitments that Thailand is seeking, in order to restore first asylum--if that is even possible.

In a February 19 letter to the Thai Foreign Minister, U.S. Ambassador William A. Brown offered a six-point plan for resolving the Vietnamese refugee crisis. According to a U.S. Embassy official in Thailand the letter raised the following recommendations:

--Stop all boat pushbacks.
--Close Phanat Nikhom to new boat arrivals, with newcomers going instead to a UNHCR holding center.
--Establish a screening program at the holding center to identify people of special concern. There would be no more generalized resettlement.
--UNHCR should urge other countries to assist in resettlement, particularly of the Phanat Nikhom caseload, now numbering about 15,000.
--UNHCR should urge the international community to promote the Orderly Departure Program (ODP), which provides for the direct departure of refugees and immigrants from Vietnam. Further, UNHCR should encourage Vietnam to accept the idea of voluntary repatriation.
--As soon as consensus is reached on these five points, UNHCR and the Thai government should make a general announcement of the new policies.

"Thai refugee policy is very fragmented right now," a U.S. official told Refugee Reports. "We do not have any real response from them on the six-point proposal. They keep saying that pushbacks are not policy, but simply actions by local officials." The Thai National Security Council (NSC), the central policy-making body on refugee and other security issues, has not been willing or able to pressure MOI, recognized as the primary architect of the pushback approach, to back down on its hardline positions, the official said.

An official with the Thai Embassy in Washington asserted that no pushbacks will occur of those who reach Thai shores, but he acknowledged that coastal patrols continue to interdict boats on the water and turn them away.

"The U.S. must learn that there comes a time when Thai and U.S. interests do not coincide," said Arsa Sarasin, Thailand's ambassador to the United States. "They cannot always come around and scream at us." As far as solutions to Thailand's refugee problem, Arsa said, "The long-term plan must be to stop the influx of these refu-

gees by strengthening the ODP and through other means." But for now, "Instead of only paying lip service, the U.S. and Western countries should make a genuine effort to accept more refugees immediately."

Shortfall in Indochinese Admissions Likely for FY 88 The U.S. admissions ceiling in FY 88 for Southeast Asian refugees in first asylum camps is 29,500, a figure that State Department officials acknowledge will not be reached this year. "We will probably be a few thousand short," a State Department official told Refugee Reports, despite the fact that, on March 15, a senior interagency group in the Administration agreed not to shift numbers away from the Southeast Asia region and reallocate them to the Soviet Union, where an unexpected increase in Armenian applications has created a need for new admissions slots (see Recent Developments). State Department sources confirm that the Administration will seek authorization of 15,000 additional numbers in FY 88 for admission of refugees from the Soviet Union and Eastern Europe, most of which would be allotted to Armenians, with smaller numbers for Soviet Jews and Poles.

The anticipated FY 88 shortfall has met with criticism from Congress and from refugee advocates. "Now is not the time to be nickel and diming Thailand on numbers," said Sen. Mark O. Hatfield (R-Ore.) in a February speech to the Senate. On March 15, Shultz received a letter from 65 members of the House of Representatives urging him to "meet the challenge at hand by fully honoring the congressionally approved 29,500 level for Indochinese refugee resettlement."

A State Department official denied the charge made by Winter that the Southeast Asian admissions program "has been deliberately managed so as to fall short of the 1988 ceilings." According to the official, the shortfall can be explained by a combination of factors, including Thai delays in granting access for interviewing, internal policy complications over a possible review of rejected Cambodian cases in Khao I Dang, and lack of refugee credentials on the part of many applicants.

"We are in the middle of a crisis," said Winter, "and the United States should use every single number it has available. There are six months left in the fiscal year to find ways to do that."

Thailand Seeks Resettlement of More "Long-Stayers" On February 21, the secretary-general of Thailand's National Security Council (NSC), Suwit Suthanakun, announced that Vietnamese boat people who arrived in Thailand after January 1 would be transferred to Site 2 on the Thai-Cambodian border, where they would be deprived of resettlement opportunities. "We have informed the UNHCR of our decision to move the Vietnamese," Suwit said, "and asked them to provide food, shelter, and other necessities." Site 2 is a border camp housing 160,000 Cambodian "displaced persons" and about 4,000 "land Vietnamese" who made the entire journey to Thailand overland through Cambodia.

One refugee program source told Refugee Reports that the Thai government may not be totally opposed to any resettlement for Vietnamese who are moved to the border but, for the moment, wants to send a negative message to would-be asylum seekers. In addition, a Thai Embassy official said that priority for resettlement should be given to the 15,000 Vietnamese in Phanat Nikhom and to "long-stayers." Of the 112,000 refugees in UNHCR camps in Thailand, 69,000 have been there more than three years, although only about 500 Vietnamese fall into this group.

Since early January, there have been no movements of Vietnamese to Phanat Nikhom, a refugee processing center 70 miles southeast of Bangkok. Boat arrivals in the east coast have numbered close to 2,000 since the beginning of the year, most of whom arrived before the pushbacks started. Not included in the arrival count are an estimated 550 who have been pushed back from the east coast. In addition to the 520 on Rang Yai Island, there are 1,222 Vietnamese at three shelters in Trat Province, and another 365 at Kamput in Chantaburi Province. On March 15, sources in Thailand report that 250 people were moved from Kamput to Site 2.

"We are aware of the humanitarian concerns," the Thai Embassy official told Refugee Reports, "but the United States and the other resettlement countries have to give Thailand commitments that if we let them in, they will help find a way out."

ODP May Be the "Best Answer" for the Future "Expanding and expediting the Orderly Departure Program is clearly the best

answer to the problem," the Thai official said. Under current program guidelines, the United States admits up to 8,500 refugees directly from Vietnam, under the Orderly Departure Program (ODP). In addition, immigrants coming through the U.S. program have averaged about 2,500 per year since 1980, and U.S. officials have indicated they would like to increase that number.

"We are geared up to move 26,000 people per year," said Brown in congressional testimony. "Some 15,000 would be Amerasians under the Indochinese Homecoming Act, and another 11,000 would be family reunion" or other processing categories. "We are prepared," he said, "to take all Amerasians and reeducation camp prisoners."

The Indochinese Homecoming Act, passed into law last December, allows for Amerasian children and their accompanying family members or guardians to enter the United States "without numerical limitation" during the next two years. The act, sponsored originally by Rep. Robert Mrazek (D-N.Y.), provides for their admission as immigrants, but with full domestic refugee benefits.

The Amerasian legislation has raised a host of logistical and budgetary questions, both at home and abroad. Elizabeth Berube, deputy director of ODP in Thailand told Refugee Reports, "Nobody has any idea yet of how the bill is going to be implemented." She said that the ODP program had files covering approximately 9,000 Amerasians--children of American servicement and Vietnamese mothers--and 20,000 additional family members. "We are prepared to move as quickly as possible," Berube said, "and have requested a supplemental interviewing trip in March, which the Vietnamese have agreed to. They want a speedy resolution to the Amerasian issue."

Observers do not expect that the legal emigration of political prisoners and their families will be resolved quite so speedily, despite Vietnam's recent release of more than 500 officers and other members of the U.S.-backed South Vietnamese regime. Berube said that those released from reeducation camps must normally wait three to four years before the Vietnamese government grants them exit permits. "We hope things will begin to move a little faster," she said, noting Vietnamese Foreign Minister Nguyen Co Thach's recent statements that prisoners with relatives abroad may be allowed to join them.

On March 7, Sens. Edward M. Kennedy (D-Mass.) and Claiborne Pell (D-R.I.) sent a letter to Secretary of State George Shultz expressing concern that the recently released prisoners had "no immediate access to the Orderly Departure Program." The letter continued, "We believe now is the time for you to renew the offer that you made four years ago--to make clear in whatever appropriate manner that the former reeducation camp prisoners should be assisted in coming to the U.S. with their families through the ODP program."

Amerasians and political prisoners may be of special priority to the United States, but they represent only a small percentage of everyone who would like to emigrate. The U.S. ODP offices in Bangkok contain 100,000 active files, comprising more than 670,000 individuals. Included in this list are about 61,000 people with current immigrant visa petitions, at least half of whom could leave Vietnam immediately if the government gave them permission to do so. "The Vietnamese have told us," however, said Berube, that their priority is "to work through their backlog of about 19,000 exit permit holders." In the last list of 3,800 that U.S. officials received in December, 22 percent had current immigrant visas.

Screening Program is Also Considered

"Clearly, there needs to be some middle ground between the current Thai position that [the Vietnamese] are all economic migrants and the alternative position that everyone who arrives must be accorded full international refugee status," an official with the U.S. Embassy in Thailand told Refugee Reports. "I think screening is the best hope."

In mid-January, the chairman of UNHCR's Executive Committee, Robert Robertson, told a Thai newspaper that he agreed in principle with the idea of a screening program to separate Vietnamese refugees from nonrefugees. Gerald Walzer, the UNHCR representative in Thailand, said that no decisions have been reached but, "It is something that is being discussed. It is being considered." He pointed out that the Thai government, with UNHCR cooperation, has operated a screening program for Laotian asylum-seekers since July 1985.

One of the reasons that Thai officials

talk so exclusively about illegal immigrants and economic migrants, says refugee law expert, Vitit Muntharbhorn of Chulalongkorn University, is that in Thai immigration law, "the word 'refugee' does not appear anywhere." Thailand's Immigration Act of 1979, as amended the following year, provides for the imprisonment or expulsion of any alien who enters Thailand without documentation or who is considered to be a threat to national security.

The result, Vitit told Refugee Reports, is that "The Thai government considers itself vested with complete powers to do what it likes with refugees." Regulations promulgated by the Ministry of the Interior do provide for certain exceptions to be made for a person "who escapes from dangers due to an uprising, fighting or war, and enters in breach of the Immigration Act," but no mention is made of flight due to a "well-founded fear of persecution," as UNHCR defines a refugee.

A screening program, said Vitit, not only would encourage Thailand to incorporate a status for refugees into its law and regulations, but also would "convey to the Vietnamese community that not everyone will be resettled. Priorities need to be made clear."

Screening for Vietnamese arrivals may serve as a deterrent, but it is not a "viable option right now," according to a Thai Embassy official. "The screened-out will only be left in Thailand, since Vietnam has not shown any interest in taking them back." He noted that in the case of the Laotian screening program, only 41 people had been returned in two-and-a-half years. For other observers, the paramount concern with repatriation is the safety of those going back.

In testimony on February 24 before the House Subcommittee on Asian and Pacific Affairs, Ambassador Brown called for "an intensive dialogue with Vietnam on the possibility of repatriation," but insisted there would need to be "strict international safeguards" established.

Walzer said that UNHCR has approached the Vietnamese government about starting a voluntary repatriation program but, thus far, no agreements have been reached. Indeed, in the February issue of UNHCR's monthly magazine, Refugees, Thach said, "We do not think the time has come for voluntary repatriation. Economic conditions have not improved, and returnees would encounter the same difficulties that led them to leave."

Hatfield Calls for "Open Debate" with Vietnam "The refugee problem will not be solved," Hatfield said in his February 23 Senate speech, "until we deal with the 'source' of the problem--the Vietnam government." One year ago, Hatfield said, he had suggested that technical offices be established in Washington and Hanoi to deal with the issue of MIA-POWs (missing-in-action and prisoners-of-war) and other humanitarian issues.

"After an initial wave of optimism" following the visit of presidential envoy, Gen. John Vessey, last August, "the very familiar pattern of infrequent, lower-level meetings snarled by tremendous logistical problems, has returned again," said Hatfield.

"A full diplomatic relationship with Vietnam...would be premature," Hatfield said, but there were "many intermediate steps which would further U.S. interests, help U.S. families, and assist Thailand as it bears the weight of a decade of refugee migrations. Until these steps are taken, the United States will continue to apply patches to the predictable and periodic ruptures that burst in the refugee camps."

Governments Debate as Families Wait for an Answer As the policy debates continue, thousands of Vietnamese wait for an answer, on islands, in makeshift beach shelters, on oil rigs, and on boats.

Khuc Minh Tiet, an American citizen in Virginia, knows that her daughter and granddaughter are in a shelter in Khlong Yai. On the trip through Cambodia, she was separated from her husband and imprisoned for two weeks. He was one of the last boat arrivals to be transferred in December to Phanat Nikhom. "I have tried since 1983 to bring them out through ODP, but Vietnam would not give them exit permits," said Khuc. "I want to sponsor them, but now my family is split apart, my daughter is being held like a prisoner, and I am so afraid she will be sent to the border."

Recent Developments

FROM YEREVAN TO HOLLYWOOD, THE ARMENIANS ARE COMING

For the past several years, Armenian emigration from the Soviet Union was a trickle, comparable to the small numbers of Jews permitted to leave the USSR. In 1986, only 246 Armenians exited the country. Then came Gorbachev's glasnost initiative, as well as the December 1987 summit with President Reagan. During the spring of 1987, the monthly totals of Armenians with exit permission were comparable to the annual totals of the immediately preceding years. As the Reagan/Gorbachev summit approached, the numbers allowed to leave climbed precipitously. In October, the U.S. Embassy in Moscow received 1,364 applications from Armenians with permission to emigrate. By the end of the year, 3,250 Armenians had been permitted to emigrate. Even after the summit, the numbers continued to rise; in January, the embassy received 1,849 Armenian applications. "There is no shortage of people exiting," said Barbara Nagorsky, resettlement coordinator of the International Rescue Committee, who recently returned from the U.S. refugee processing post in Rome. "The numbers seem to be increasing."

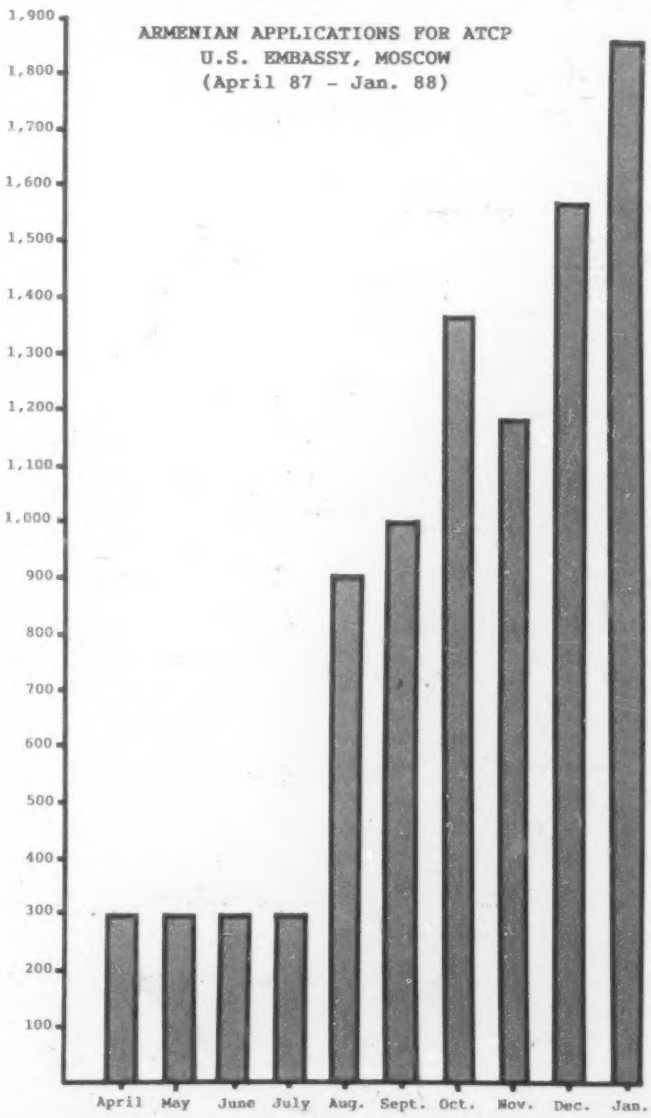
Although the U.S. embassy in Moscow was initially swamped by Armenian applicants--a situation complicated by recent decisions to do away with Russian embassy support staff--the embassy now appears to be handling the situation smoothly.

The Soviet Armenians are arriving in the United States very soon after being granted permission to emigrate. They are being processed through the Accelerated Third Country Processing (ATCP) program whereby they are preprocessed by the U.S. embassy in Moscow and exit the country within the 6 month period that their exit visas are valid. Thereafter, they transit to Rome, where INS approval is almost 100 percent. Nagorsky said that the operation there was "very efficient" and that the average length of stay for Armenians is five days.

State Department officials are anticipating that 12,000 Armenians will enter the United States this year, if present trends continue. Some 85-95 percent of that total will probably resettle in the Los Angeles area, especially East Hollywood, where other recent immigrants from Soviet Armenia have congregated.

"For the Armenian community in Hollywood, the door is open," said Roseann Emerzian Saliba, executive director of the Armenian Evangelical Social Service Center. "People say, 'What can I do?' They roll up their sleeves and help each other."

The Armenian Evangelical Social Service Center has been matching new arrivals with members of the local community who help with enrolling children in school and with orien-



tation to American life.

Many of those now coming are related to Soviet Armenians who arrived as part of the last major influx in 1979-80. While the U.S. relatives are welcoming their daughters and brothers with open arms, social service providers in the area doubt that they have the financial resources to provide the degree of support needed to get the new arrivals on their feet.

"Many of the anchor relatives are elderly people who themselves are in pretty bad financial shape," said Bruce Whipple, director of the Los Angeles office of the International Rescue Committee. "They simply don't have the resources to support their relatives."

Los Angeles County in Financial Pinch

Joan Pinchuk, the Los Angeles county refugee coordinator, told Refugee Reports, "The Armenian community is really getting stretched. Nobody wants to see people go on welfare, but what families are well enough off to support a whole new family?"

Pinchuk is as aware as anyone of the financial realities in Los Angeles county, since her job involves scraping funds together to support the county's refugee needs.

"We don't have the resources to give our new Americans alternatives with which to assimilate," she said. "Some will be able to make it on their own, but many need additional help."

Pinchuk pointed out that federal refugee resettlement dollars "have been dwindling each year." For example, she said, the targeted assistance program that provided $7 million in FY 83 has fallen to $3 million in FY 88. This has occurred, however, at a time when the refugee population in Los Angeles county has doubled from 600 per month to 1,200 per month.

Pinchuk said that the major crunch at the present time is with classes for English as a second language (ESL). "There are now 40,000 people on waiting lists for ESL classes," she said.

By all accounts, the vast majority of new Armenian arrivals speak no English, and service providers across-the-boards say that the availability of ESL classes will be critical to their successful integration.

California as a whole is in a transition period with the new GAIN program just starting to overhaul the welfare system. Start up funds for GAIN, however, have been only half of what was initially expected, leaving a number of programs in disarray.

"The Armenians came at a time when things would have been in a mess anyway," said the IRC's Whipple.

Pinchuk worries that the strains in the system could result in a backlash toward the new arrivals. "Everyone is asking how we are gearing up, as though we are expecting a plague," she said. "It bothers me that they are being looked upon as intruders."

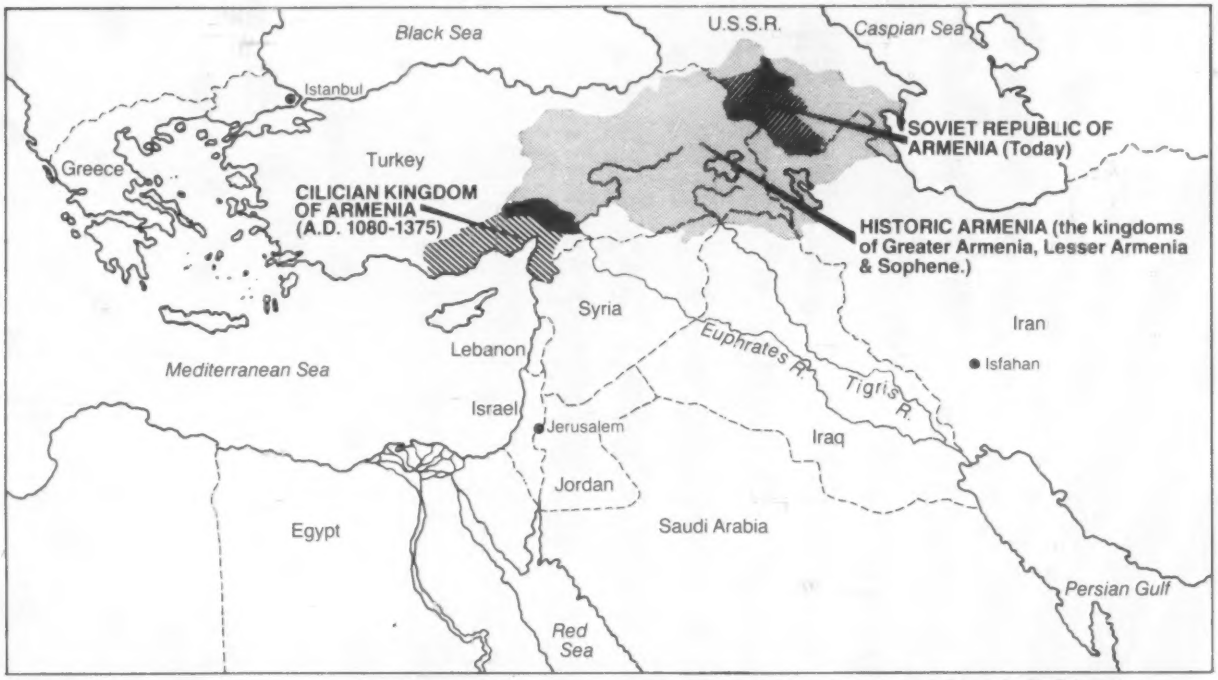
Local service providers are hoping that the federal government will help more with resettlement costs. Sarkis Ghazarian, director of Armenian Relief Society Social Services, an agency directly involved with serving the survival needs of the new arrivals, told Refugee Reports, "If the federal government spends money to bring people in, it should provide sufficient funds for their resettlement."

Pinchuk said, "It is not appropriate for the federal government not to be a partner with local governments in helping people to be self-sufficient."

Ghazarian characterized the Armenians as "hard working people" who want to contribute to the American economy. "But," he said, "we need to gear up more to help them adjust so they do not become permanent welfare recipients."

Culture Shock Local service providers familiar with the Soviet Armenians see effective cultural orientation as a vital element for keeping them off the welfare rolls. Yet, the fast processing of Soviet Armenians, while sparing them the indignity of refugee camps, means that they are arriving with virtually no cultural orientation.

"It is a very big culture shock," said Saliba. She explained that many of these refugees are "repatriates"--people who immigrated into Soviet Armenia in the 1940s coming from Syria, Greece, Lebanon, and the United States, who now are returning--or, for those originally from the Middle East, simply leaving. They have memories of the USSR providing their basic survival needs upon arrival. "They assume America will take care of them in the same way," she said. "Then they see a monthly rent check of $750."



Historic Armenia compared with modern nations/ Armenia: Crossroads of Cultures

Saliba said that they have no understanding of the U.S. welfare system. "The translation of 'welfare' in Armenian is 'tuition,'" said Saliba.

"In the USSR you are due welfare," Whipple observed. "Here we have to tell them we do not approve of it."

Adjustment Concerns One of the first things the local agency personnel would like to do is to produce an Armenian language "Welcome to Los Angeles" cultural orientation booklet which could be distributed in Rome as a "reality check" on what Armenian immigrants are likely to encounter. "They expect all that they see in the movies--great jobs, rich families--plus the services the government provides in the USSR--housing, health care," said Pinchuk.

The new arrivals come with a host of immediate survival needs. "They are not allowed to take more than 100 rubles out of the country, which doesn't go very far," said Ghazarian.

Affordable and decent housing is one of the first hurdles. Rents in Hollywood have been going up monthly, according to Whipple. Yet, he said, "the Armenians are tied to living close to the community."

Hollywood has several disadvantages, a relative high cost of living, and no industrial enterprises for the largely blue collar workers now arriving. Bus transportation is inconvenient to outlying areas where there is factory work; the bus commute to the suburbs takes up to three hours, according to some estimates.

"They all can't live in Hollywood," said Pinchuk.

But Hollywood is the center of the Los Angeles basin's estimated 250,000 Armenians. There are more than a dozen Armenian parochial schools and an equal number of Armenian churches. There are Armenian language newspapers, and active social and political organizations.

Nearby Glendale has become the haven for Armenian refugees from Iran. Although Iranian refugees admitted to the United States are not designated by ethnic group by the State Department, refugee service providers in the Los Angeles area estimate that one Iranian Armenian is being admitted for each two Soviet Armenians. They face many of the same adjustment problems as the Soviet Armenians. "On the whole, the Iranian Armenians are much tougher, more outspoken, more aggressive than the Soviet

Armenians," said Pinchuk.

Ambivalence about Leaving the Homeland

While the Armenian community seems to be united in its welcome of the new wave of Armenian immigrants, it is deeply ambivalent about their leaving in the first place.

Archbishop Vatche Hovsepian, Primate of the Armenian Church Western Diocese, told Refugee Reports, "For any nationality to leave its homeland is very unorthodox, abnormal. It does not please us."

Harut Sassounian, editor and publisher of the California Courier, an English-language weekly for the Armenian community, explained that Armenians have been scattered from their historical homeland, not by choice, but by persecution and massacre, including Turkey's genocidal campaign against the Armenians in 1915. Turkey now controls 90 percent of the Armenian homeland, including its central symbol--Mt. Ararat; the other 10 percent is Soviet Armenia. "Because of the injustice we suffered," said Sassounian, "we all dream of one day returning to our homeland."

Sassounian said, "When Armenians on any part of our historical homeland leave Armenia, they go against the struggle, against our goals."

Sassounian added that he is not personally antagonistic to the new arrivals. "I sympathize with many of them, many are my friends. But the interest of individuals is secondary to the national interest."

Ani Keshishian, associate editor of the Armenian Observer, on the other hand, told Refugee Reports, "No one has the right to say, 'don't go,' when you are not there yourself."

Keshishian said, "Individuals have the right to decide. Why should we stop them coming out when we are in a comfortable situation ourselves?"

Souren Boursalian, editor of Paros, a biweekly in the eastern Armenian language that is directed primarily to immigrants from the Soviet Union, is himself a refugee from the USSR. He shares the ambivalence of the community as a whole. "As an Armenian, I don't like to see Armenians leave the homeland. As a man, I would like to see the Soviet government let out all who want to quit the country."

Boursalian himself is one of the "repatriates" who responded to Stalin's invitation at the close of World War II for Armenians to "return" to Soviet Armenia. At the age of 18 he left Beirut for the USSR. Soon thereafter, he was imprisoned for anti-Soviet activities. He spoke of mistreatment in prison and of being deported to Siberia. "When I could come out, I left. It is not that I didn't love my homeland. I simply couldn't stand it anymore."

"As an Armenian," said Boursalian, "I wouldn't like to see more leave. As a man who believes in freedom, they have to let them out."

SUPREME COURT CLEARS WAY FOR DEPORTATIONS

Aliens who have been ordered to be deported will have a tougher time reopening their deportation proceedings by claiming a need for political asylum if they did not make such a claim at the outset, according to a March 1 Supreme Court decision.

The case, INS v. Abudu, involved a Ghanaian doctor who was ordered deported in 1982 following a guilty plea on drug charges. Abudu's appeal was dismissed by the Board of Immigration Appeals (BIA) in 1984. In 1985, while his petition for review before the Court of Appeals was pending, he filed a motion to reopen his deportation proceeding with the BIA to enable him to apply for asylum and withholding of deportation.

Abudu claimed a fear of persecution if returned to Ghana because the current government, which seized power in 1981, had carried out a systematic campaign of persecution against its enemies, including his brother and other close friends. He also alleged that he had received a surprise visit in 1984 from a former acquaintance who had become a Ghanaian government official. He said that he believed this man was trying to entice him to return to Ghana in order to give information about his brother.

The BIA denied the motion to reopen, saying, among other things, that Abudu had not reasonably explained his failure to request asylum prior to the completion of the deportation process.

The Court of Appeals, however, reversed the order denying the motion to reopen and said that an evidentiary hearing was needed on the asylum and withholding of deportation claims.

Deportable Alien Has "Heavy Burden" on Motion to Reopen The Court's unanimous decision, written by Justice Stevens, sided with the BIA and reversed the Court of Appeals reversal of the BIA. It came down particularly hard on aliens facing deportation who did not make an asylum claim at the outset. Stevens wrote that had Abudu "made a timely application for asylum, supported by factual allegations" an immigration judge would have been required to grant an evidentiary hearing. "We are equally convinced, however," wrote Stevens, "that an alien who has already been found deportable has a much heavier burden when he first advances his request for asylum in a motion to reopen."

The reason for that heavy burden, according to the Court, is that the Attorney General's regulations "plainly disfavor motions to reopen" and that the BIA, as an administrative arm of the Attorney General, has "broad discretion in considering motions to reopen." The BIA has discretion to deny motions to reopen, since granting asylum itself is a matter of the Attorney General's discretion.

Stevens said, "INS officials must exercise especially sensitive political functions that implicate questions of foreign relations, and therefore the reasons for giving deference to agency decisions on petitions for reopening...apply with even greater force in the INS context."

In disfavoring motions to reopen generally, the Court also seemed to be sending a signal that it is dissatisfied with the way deportation proceedings drag on. "There is a strong public interest," Stevens wrote, "in bringing litigation to a close as promptly as is consistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases."

Court Says BIA Denial of Motion to Reopen is Discretionary The decision held that the standard for judicial review of BIA judgments should be the "abuse of discretion" standard, since the matter is an exercise of the BIA's discretionary function.

Motions to reopen, the Court noted, must be based on at least three grounds. First, the establishment of a prima facie ["at first sight"] case should support the alien's underlying substantive claim. (The Supreme Court declined to decide substantively what constitutes a prima facie case for establishing eligibility for asylum based on a well-founded fear of persecution.) The other grounds for motions to reopen--on which the Court did agree to decide the standard of review--are the introduction of previously unavailable, material evidence or, in the case of asylum applications, a reasonable explanation why the applicant failed to apply for asylum initially. On these two grounds, the Court ruled that the appropriate standard of review is "abuse of discretion," giving the BIA greater latitude to deny motions to reopen than the Court of Appeals had asked for.

Deborah Anker, a lecturer on immigration and asylum law at Harvard Law School, told Refugee Reports that Abudu's case "was not very compelling on the facts" and that "it is not a disaster for the Supreme Court to say that there is not enough here to warrant an abuse of discretion."

Anker said that Stevens' opinion was narrowly drawn. By confirming that "abuse of discretion" is the standard of judicial review, she suggested that the court is placing asylum questions in the language of administrative law, according to which administrative decisions can be overruled. "The manner in which the Supreme Court articulated the 'abuse of discretion' standard for judicial review is a far cry from holding that the immigration authorities have unfettered discretion to deny motions to reopen," she said.

Critics Charge Court Puts Expediency Before Lives Although the decision was unanimously voted on by the Court (with Justice Kennedy abstaining because he had not been present for oral arguments), it was not noncontroversial.

Maurice Roberts, former chairman of the BIA, and currently editor of the immigration law weekly, Interpreter Releases, wrote in his publication that the Court's analysis "sends out deeply disturbing signals."

Roberts noted that there are many reasons for an alien's failure to request asylum at the outset. He noted that the alien could fear reprisals against family members back home if word of his asylum claim got back to the authorities, or that he could learn more about the possibilities of per-

secution over a period of time. More simply, Roberts suggested, failure could be due to ignorance or incompetence on the part of the alien's legal representative or to the lack of representation.

"It seems to us," wrote Roberts, "that in balancing the alien's plight against administrative convenience and giving greater weight to the latter, the Court here somehow dilutes the principles which have made us a great nation. What is so sacred about administrative convenience when a person's life may be at stake?"

Arthur Helton, director of the political asylum project of the Lawyers Committee for Human Rights, told Refugee Reports that there are many other reasons for refugees to hesitate in presenting their asylum claims to the authorities in addition to the fear of retribution towards relatives in the homeland, including fear of the U.S. authorities themselves. Helton also said that many cling to the hope of returning to their homeland and are hesitant to sever ties, as occurs with asylum. Therefore, they often tend first to try other less final avenues of relief from deportation.

"The decision, like the regulations it is based upon, ignores this reality," said Helton.

Helton said, however, that the decision basically gives latitude to the government agency to determine its own rules. And, Helton noted, the asylum regulations are currently under consideration. "They could change," he said. "The Attorney General could decide that discretion could be exercised more generously."

The Justice Department withdrew its proposed asylum regulations last October following criticisms from a wide range of legal and advocacy groups.

Update

° On March 15, the Senate approved the Kennedy-Simpson legal-immigration bill by a vote of 88 to 4. Sen. Alan K. Simpson (R-Wyo.) did not opt to introduce an amendment to the bill concerning refugee admissions (see Refugee Reports, Vol. IX, No. 2).

° The full Senate is expected to vote the week of March 21 on the DeConcini/Moakley bill (S. 332) that would suspend deportation of Salvadorans and Nicaraguans for up to two years.

° Nicaraguan asylum approvals for FY 88 are running at 83 percent, which is comparable to last year's rate, and far above the approval rate of other Central American nationalities, such as Salvadorans at 4.4 percent and Guatemalans at 0 percent. The Immigration and Naturalization Service (INS) indicated last year that the Nicaraguan approval rates of 84 percent for FY 87 were inflated because drafted denials had not been completed due to "clerical shortages in two INS offices, including one with the vast majority of Nicaraguans."

It now appears unlikely that the FY 87 figures will be adjusted. INS sources in Washington have told Refugee Reports that only a very few, infrequent denials have come out of the Miami INS office, where most of the Nicaraguans apply. Sources say that "intents to deny" have been drafted, but not processed. INS sources attribute this to an "administrative lag."

° The Federal Court of Canada has prohibited the Immigration Appeal Board from making a determination of an alien's refugee status because of a possible appearance of bias. The court ruled that the government's pending refugee bill (C-55) created a "reasonable apprehension of bias...that the existing board members will tend to lean in favor of the government's position." C-55 would dismiss all present members of the board and only rehire some of them. This, the court ruled, would make board members "think that their immediate financial future is unsettled and in the hands of the government."

The court decision would seem to tie up the Canadian asylum adjudication system for the foreseeable future. Sergio Marchi, a Liberal member of Parliament, told the Toronto Globe and Mail, "We simply can't close down the shop because there might be a modification in a particular board. It's going to be a long time before C-55 is proclaimed. In the meantime, there must be some way for the system to continue."

The same paper quoted David Matas, the alien's lawyer who raised the issue, saying, "It is very unusual for a bill to be attacked in the courts before it becomes law."

He said, "It shows that the government's legal position is legal bravado."

° Romania announced in late February that it would renounce most-favored-nation (MFN) trade status as of July 2. The decision apparently reflects Romanian dissatisfaction with the linkage of MFN trade status and the right to emigrate dating back to the Jackson-Vanik amendment.

° On February 25, the Office of Refugee Resettlement (ORR) published its proposed FY 88 allocations of $55.5 million in social service funding to states (Federal Register, Vol. 53, No. 37). Of this sum, ORR proposed to allocate $53 million on the basis of each State's proportional share of the national population of refugees and entrants who have been in the United States 3 years or less, as of October 1, 1987. ORR estimates the national population of "time-eligible" refugees and entrants to be 195,565.

An additional $2.5 million would go to incentive grants for refugee community groups, or mutual assistance associations (MAAs). ORR would retain $10 million to spend on a discretionary basis for projects to promote "effectiveness and efficiency" in the resettlement program. Two initiatives that will continue to be funded with this discretionary money include the Favorable Alternative Sites Project (FASP) and the Planned Secondary Resettlement (PSR) program, designed to encourage, respectively, the initial and secondary resettlement of refugees away from areas of high impact.

Unless a state obtains a waiver from ORR, it is required to spend at least 85 percent of its social service funding for employment services, English language training, and case management services.

Comments on the proposed allocations should be sent by March 28 to Toyo Biddle, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street SW, Washington, DC 20201. (202) 245-1924.

° On March 4, ORR published an announcement of its allocation of $34,466,000 in FY 88 targeted assistance grants. Targeted assistance funds are supplemental grants to counties where there are factors "such as unusually large refugee and entrant populations, high concentrations, and high use of public assistance."

The conference report on the Continuing Resolution passed in December provided $10,531,000 in special targeted assistance funds to Dade County schools and Jackson Memorial Hospital in Florida. Of the remainder, an additional $6.3 million goes to Florida and $9.8 million to California, with the rest divided among 18 States.

° The Department of Education has proposed changes in the regulations for transitional programs for refugee children. The proposed amendments to the regulations, published in the February 26 Federal Register, would define eligible local educational agencies (LEA) as those serving at least 20 eligible refugee children. The Department of Education said that "if an LEA has fewer than 20 eligible students, it does not have a 'demonstrated need' for Federal assistance under this program.

The proposed regulations would also take away emergency funding authority to respond to emergencies in which a sudden influx of refugees results in substantial or disproportionate increases in refugee children enrollment after the grants have been awarded. The Education Department explained its rationale for proposing to drop this emergency funding authority by saying, "It is not anticipated that a sudden influx of refugees that would necessitate use of this funding authority will occur in the foreseeable future."

The transition program for refugee children currently provides assistance through grants to State educational agencies and subgrants to LEAs to provide special educational services to refugee children enrolled in public and nonprofit private schools.

Comments on the proposed regulations must be received by the Department of Education before April 26, 1988. They should be sent to Alicia Coro, Director, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Ave. SW, Room 421, Washington, DC 20202.

° The Reagan Administration has submitted its proposed FY 89 refugee budgets for the Department of State and the Office of Refugee Resettlement in the Department of Health and Human Services. The FY 89 State

Department budget for refugee migration and assistance of $340,000,000 is based on estimated admissions of 68,500. In contrast, the ORR budget of $278,883,000 is based on an admissions figure of 51,000 (see charts below). Government officials point to the Office of Management and Budget as the architect of both budgets, but cannot provide an explanation for the discrepancy.

Refugee Reports will provide a more comprehensive analysis of the federal refugee budget in next month's issue.

ORR REFUGEE AND ENTRANT ASSISTANCE BUDGETS, 1987 to 1989

	1987 Enacted	1988 Estimated	1989 Request	Increase or Decrease 1988 to 1989
Cash and medical assistance (CMA)	225,316,000	207,043,000	182,304,000	-24,739,000
State administration of CMA	33,797,000	26,231,000	21,454,000	- 4,777,000
Social Services	68,617,000	65,694,000	-0-	-65,694,000
Employment services	Not Applicable	N/A	30,000,000	+30,000,000
Voluntary agency matching grant program	3,828,000	7,659,000	7,659,000	Same
Preventive health	8,039,000	5,840,000	3,000,000	- 2,840,000
Targeted assistance	-0-	34,466,000	34,466,000	Same
TOTAL	339,597,000	346,933,000	278,883,000	-68,050,000

Source: Office of Refugee Resettlement, Family Support Administration, Department of Health and Human Services.

STATE DEPARTMENT REFUGEE AND MIGRATION ASSISTANCE BUDGETS 1987 to 1989

	1987 Enacted	1988 Estimated	1989 Request	Increase or Decrease 1988 to 1989
Refugee Admission Program	108,731,000	119,548,000	115,400,000	-4,148,000
Refugee Assistance Overseas	194,725,000	176,200,000	197,100,000	+20,900,000
Other Assistance	34,900,000	34,702,000	19,500,000	-15,202,000
Administrative Expenses	8,500,000	8,000,000	8,000,000	--
TOTAL	346,856,000	338,450,000	340,000,000	+ 1,550,000

Source: Department of State

Resources

AUTHORS FIND AMERICA HAS HALF-OPENED DOOR TO REFUGEES

The United States has responded with generosity and compassion to certain refugees since 1945, but, "for each example of the open door, there is another of the doors banging shut," say Gil Loescher and John A. Scanlan, authors of Calculated Kindness: Refugees and America's Half-Open Door, 1945-Present.

The 346-page book is a comprehensive history of the development of refugee policy in post-World War II America. The authors are careful to give due credit to the genuine progress the United States has made in its attitudes toward and treatment of refugees.

"In the four decades since the end of World War II," the authors observe, "American immigration politics have become notably less racist and more humane. The improvement in the general immigration environment has been matched by a greater federal awareness that refugees have special claims, and a greater willingness to ignore such factors as race or religion in fashioning special immigration opportunities for them."

However, this humanitarianism, as the book's title suggests, is tempered by political concerns. The authors are careful not to suggest that refugee policy decisions are wholly motivated by politics, but rather are a symbiosis of humanitarian and political impulses. "Concern over the fate of hundreds of thousands of people who are starving, or fearful of persecution on political grounds, or both, goes hand in hand with concerns over regional stability, overburdened countries of first asylum, and the positive political gains to be made by presenting a negative image of communist rule." Loescher and Scanlan maintain that "when no linkage exists, however, humanitarian motives have been almost always overwhelmed by political calculation."

Late 1970s Southeast Asian Refugee Program Given High Marks The book communicates the unique chemistry of events and interests that resulted in the United States' greatest success in refugee protection following the fall of Saigon, the Vietnamese boat people exodus, and the aftermath of the Cambodian holocaust. The authors capture the historical moment, and paint a lively and interesting picture of the heroes who made the rescue effort possible--from private sector movers and shakers, such as Leo Cherne of the International Rescue Committee, to the State Department's "Saigon Cowboys," Shepard Lowman, Lionel Rosenblatt, and Hank Cushing, whose singular intensity and commitment spurred the government apparatus to action above and beyond the usual bureaucratic response.

Although a genuinely humanitarian response, the authors are cognizant of the political context of the effort. While noting that the Southeast Asian refugee programs "were marked by considerable selfless generosity....they revealed the ability of a few dedicated people to shape public policy, the influence of humanitarian coalitions, and the importance of strong Presidential leadership. However, they also demonstrated how conscious those making policy were of the geopolitical significance of their actions."

The Door Closes In a chapter entitled "Reagan and the Closing Door," the authors say that the welcome in the 1980s has become less generous and more motivated by ideological considerations on the part of the Administration and more restrictionist sentiment in Congress. The two impulses have played together to the detriment of refugees and asylum seekers. "While the resurgence of restrictionist politics in the United States has played a major role in keeping overall refugee numbers down, it is ideology which has determined how the numbers that remain will be distributed."

The authors level their strongest criticism at the double standard that has discriminated against refugees from Haiti, El Salvador, and Guatemala and resulted in their return to dangerous conditions. "The virulence of the government's campaign against Haitian and Salvadoran asylum seekers in recent years is unmatched," the authors charge.

Calculated Kindness is published by the Free Press, a division of Macmillan, Inc., New York, and listed at $22.50. It can be ordered through local bookstores.

U.S. REFUGEE POLICY EXAMINED

A recently published book surveys the development of U.S. refugee policy and current U.S. practices with regard to refugee admissions and asylum.

The Guarded Gate: The Reality of American Refugee Policy, by Norman L. Zucker and Naomi Flink Zucker, finds that foreign policy and immigration interests have, over the years, eclipsed humanitarian concerns in determining U.S. refugee policy. "Refugee policy does not in fact serve refugees;" the authors charge, "rather, it designates as refugees those who serve the policy."

The authors survey the past century of U.S. refugee policy, and find a tug-of-war throughout the decades between restrictionists and those favoring more liberal admissions policies. U.S. immigration policy has been dominated by the restrictionist camp, the authors find, from the Chinese Exclusion Act of 1882 to the McCarthy-era McCarren-Walter Immigration and Nationality Act of 1952, which remains the core of U.S. immigration policy to this day. "For over a century," the authors contend, "America has had a guarded gate, a gate always closed to some, a gate opened selectively to others. In American refugee history, myth and reality, welcome and rejection merge."

The Zuckers analyze the reasons why the few who are admitted pass through the gate. They maintain that "knowing why refugees are admitted will inevitably reveal who will be admitted." U.S. foreign policy determines who is eligible for admission; but who actually is admitted depends on other factors, most notably the numbers of those pressuring for admission and the likelihood of low-cost and domestically unopposed resettlement.

The authors look closely at the Refugee Act of 1980, including the developing picture of resettlement and the involvement of voluntary agencies and refugee mutual assistance associations. Although noting the Act to be an improvement, the Zuckers find that refugee admissions continue to be determined largely by ideology and geography. "Before a person may be granted refugee status," they write, "two determinations must be made. First, whether refugee numbers have been allocated for the region of a person's nationality; and second, whether the person is within a group designated to be of 'special humanitarian concern.'"

The Guarded Gate goes into high gear in chapters devoted to Haitians and Central Americans, where concrete evidence of discriminatory treatment lends weight to the book's themes. This portion of the book also sheds interesting light on the sanctuary movement, suggesting that the Tucson-based originators of the movement, such as Jim Corbett, take an essentially humanitarian approach of direct assistance to refugees while the Chicago Religious Task Force, the national hub of the movement, takes a more political approach. "The Tuscon people say with great conviction that if Congress would pass bills awarding Extended Voluntary Departure to Salvadorans and Guatemalans [see update], their movement would disappear entirely. Chicago, on the other hand, will persist in its fight until the United States withdraws from Central America."

The authors propose the establishment of a refugee admission priority scale, applicable to both overseas refugees and asylum seekers within the United States, which would assess those refugees most in need of U.S. protection. Refugees who had already suffered persecution and who had little or no chance of returning to their homeland would be accorded the highest priority. "Allocations," the Zuckers write, "would not be based upon the recommendations of the State Department, and would not be assigned geographically, but would be based on the actual needs of refugees worldwide."

The Guarded Gate, published by Harcourt Brace Jovanovich, is priced at $22.95 and can be ordered through local bookstores.

CORRECTION NOTICE

Readers have called to our attention a typographical error concerning African processing out of Europe. It appeared in Vol. VIII, No. 12 (the December 18, 1987 statistical edition of Refugee Reports).

Footnote a/, page four, should read: P-5 processing is available only for those who registered with a voluntary agency or with the UN High Commissioner for Refugees (UNHCR) before November 19, 1986, or those fleeing from Eastern Europe.

INDOCHINESE CAMP POPULATIONS

COUNTRIES OF ASYLUM/RPCs	POPULATION AS OF 12/31/87	POPULATION AS OF 12/31/86	TOTAL ARRIVALS SINCE 1975
First Asylum			
Hong Kong	9,532	8,039	130,071
Macau	518	620	7,652
Indonesia	2,456	3,890	102,731
Malaysia	9,120	9,044	225,200
Philippines	3,405	2,672	41,869
Singapore	311	61	33,033
Other	775	1,214	41,083
Thailand			
--Khmer	22,974	26,412	238,061
--Highlanders	53,088	57,134	143,706
--Lao	20,644	26,181	188,696
--Vietnamese Land	908	718	30,776
--Vietnamese Boat	13,627	6,305	96,713
Subtotal Thailand	111,241	116,750	697,952
Subtotal Land Refugees	97,614	110,461	601,255
Subtotal Boat Refugees	39,744	31,829	678,336
TOTAL 1ST ASYLUM	137,358	142,290	1,279,591

Source: Department of State

REFUGEE REPORTS is published monthly for $28.00 per year for one subscription, $20.00 each for two or more subscriptions to the same addressee, or $20.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage, $24.00 additional; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

Editorial comments and inquiries should be sent to: *Refugee Reports*, 815 Fifteenth Street NW, Suite 610, Washington, DC 20005. All communications regarding subscriptions should be sent to: Refugee Reports Subscriptions, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204. (615) 377-3322.

Basic subscription rate for 12 issues per year: $28.00; Multiple-copy rate: $20.00; Single copies of back issues: $2.50
Editor: Virginia Hamilton; Staff Writers: Bill Frelick, Court Robinson
Distribution Manager: Carolyn Moore; Production Coordinator: Kouia Papanicolas
© 1988 American Council for Nationalities Service. Rights of reproduction and redistribution reserved. ISSN 0884-3554.

Refugee Reports

A Project of the American Council
for Nationalities Service
Sunbelt Fulfillment Services
P.O. Box 41094
Nashville, TN 37204

20814KIANKE004 NOV88 26000****
ED KIANKA ACQUISITIONS EDTRR
CONGRESSIONAL INFORMATION SER
4520 EAST-WEST HWY STE 800
BETHESDA MD 20814

Address Correction Requested
Return Postage Guaranteed